

AMENDMENT ONE
INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE TOHONO O'ODHAM UTILITY AUTHORITY

THIS AGREEMENT is entered into 3rd of June 2004, Amendment One to JPA 95-024, AG Contract No.: KR95-0253TRN, filed 26 June, 1995, filed with the Secretary of State under No. 19813, pursuant to Arizona Revised Statutes Sections 11-951 through 11-954, as amended between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOHONO O'ODHAM UTILITY AUTHORITY, acting by and through its Operation Manager, (the "TOUA"), collectively the "Parties".

I. RECITALS

1. State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The TOUA is empowered by the Tohono O'Odham Legislative Council Resolution No. 99-534 to enter into this agreement, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the TOUA.

The State and the TOUA agree it is in the best interest of the Parties to expand the scope of the Project and the maintenance responsibilities associated with the Project outlined in the original agreement, attached hereto and made a part hereof, to include the construction and maintenance of luminary lighting at each end of the Sells Wash Pedestrian Bridge.

THEREFORE, Recital 1.3 is deleted and replaced in full as follows:

3. The State and the TOUA desire to participate in design, construction and maintenance of roadway lighting warranted on SR 86, including luminary lighting at each end of the Sells Wash Bridge, through the community of Sells, Arizona, hereinafter referred to as the "Project", using State and Federal funds, estimated at \$354,000.00.

#01

NO. 19813
Filed with the Secretary of State
Date Filed: 06/03/04
Janice K. Brewer
Secretary of State
By: Timothy D. Seacrowald

II. SCOPE OF WORK

Article II.1.c is revised and replaced in full as follows:

1. The State will:

c. Upon completion, approve and accept the Project on behalf of the Parties hereto, and be responsible for all costs associated with the Project, estimated at \$354,000.00.

Article II.2.c is revised and replaced in full as follows:

2. The TOUA will:

c. Upon completion and acceptance by the State, provide maintenance to the Project and be responsible for electric power to operate the roadway lighting and luminary lighting at the Bridge.

III. MISCELLANEOUS PROVISIONS

Articles III. 1 is deleted and replaced in full as follows:

1. This agreement shall remain in force and effect until completion of said Project and final reimbursements; provided, however, that this agreement, except any provisions for maintenance of the Project lighting and electric power, which shall be perpetual, may be cancelled at any time prior to the advertisement of a Project construction contract, upon thirty (30) days written notice to the other party. It is understood and agreed that, in the event the TOUA terminates this agreement, the State shall in no way be obligated to maintain said Project.

Articles III. 8 and 9 are added in full as follows:

8. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

9. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

EXCEPT AS AMENDED herein, all other terms and conditions of the original Agreement remain in full force and effect

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOHONO O'ODHAM UTILITY AUTHORITY

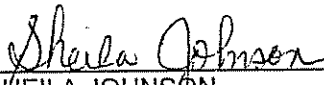
STATE OF ARIZONA

Department of Transportation

By 
CHARLES WIESE
General Manager

By 
MICHAEL P. MANTHEY, P E
State Traffic Engineer

ATTEST:

By 
SHEILA JOHNSON
Secretary